

FILED
U.S. DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

APR 7 1999

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CIV-99-0122 JP/RLP
CR-96-382 JP

HAROLD BUCK,

Defendant.

Theresa M. Ward
CLERK

MEMORANDUM OPINION AND ORDER

This matter is before the Court to consider Defendant's Letter-Affidavit filed February 2, 1999, construed herein as a motion to correct sentence. Defendant claims that he has been denied credit for time served in custody of the U.S. Marshal before he was sentenced. As indicated by a letter from the U.S. Probation Office, attached as Exhibit A to Defendant's affidavit filed March 31, 1999, the time period at issue occurred while Defendant was serving a state sentence. Defendant only began serving his federal sentence after he was released by the New Mexico authorities, and no credit was earned against the federal sentence before the state's release. *Edmond v. Booker*, 92 F.3d 1196 (Table, text in Westlaw), 1996 WL 442756, at *1 (10th Cir. 1996); *Bruss v. Harris*, 479 F.2d 392, 394 (10th Cir. 1973). The crux of Defendant's argument is that the state court ordered his sentences to run concurrently. This claim has been considered and denied by this Court in an order entered May 2, 1997. The instant motion will be denied.

IT IS THEREFORE ORDERED that Defendant's Letter-Affidavit filed February 2, 1999, construed herein as a motion to correct sentence, is DENIED, and this civil proceeding is DISMISSED.

James A. Parker
UNITED STATES DISTRICT JUDGE

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